

South Carolina General Assembly
125th Session, 2023-2024

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H. 3549

STATUS INFORMATION

General Bill

Sponsors: Reps. Harris, Burns, Chumley, Pace, Beach, S. Jones, Long, Magnuson, McCabe, Trantham, Kilmartin and Cromer

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Introduced in the House on January 10, 2023

Currently residing in the House

Summary: South Carolina Prenatal Equal Protection Act of 2023

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/15/2022	House	Prefiled
12/15/2022	House	Referred to Committee on Judiciary
1/10/2023	House	Introduced and read first time (House Journal-page 206)
1/10/2023	House	Referred to Committee on Judiciary (House Journal-page 206)
1/11/2023	House	Member(s) request name added as sponsor: Beach
1/12/2023	House	Member(s) request name added as sponsor: S. Jones, White
1/17/2023	House	Member(s) request name added as sponsor: Leber
1/25/2023	House	Member(s) request name added as sponsor: Long
1/31/2023	House	Member(s) request name added as sponsor: O'Neal
2/1/2023	House	Member(s) request name added as sponsor: Landing
2/7/2023	House	Member(s) request name added as sponsor: Magnuson
2/8/2023	House	Member(s) request name added as sponsor: Haddon, Willis, McCabe
2/9/2023	House	Member(s) request name added as sponsor: Lawson
2/14/2023	House	Member(s) request name added as sponsor: Trantham
2/22/2023	House	Member(s) request name added as sponsor: Ligon
2/28/2023	House	Member(s) request name removed as sponsor: Landing, Leber
2/28/2023	House	Member(s) request name added as sponsor: Kilmartin, Vaughan, Pedalino

Date	Body	Action Description with journal page number
3/1/2023	House	Member(s) request name added as sponsor: Guffey
3/2/2023	House	Member(s) request name added as sponsor: Cromer
3/13/2023	House	Member(s) request name removed as sponsor: Vaughan, Pedalino, Lawson, Ligon, Haddon
3/14/2023	House	Member(s) request name removed as sponsor: Willis
3/16/2023	House	Member(s) request name removed as sponsor: Guffey
3/28/2023	House	Member(s) request name removed as sponsor: O'Neal, Nutt
5/9/2023	House	Member(s) request name removed as sponsor: White

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VERSIONS OF THIS BILL

[12/15/2022](#)

A BILL

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "SOUTH CAROLINA PRENATAL EQUAL PROTECTION ACT OF 2023"; BY ADDING SECTIONS [16-3-6](#), [16-3-105](#), [16-3-106](#), [16-3-107](#), AND [16-3-108](#) SO AS TO DEFINE "PERSON" TO INCLUDE AN UNBORN CHILD AT ANY STAGE OF DEVELOPMENT AND TO ENSURE THAT AN UNBORN CHILD WHO IS A VICTIM OF HOMICIDE IS AFFORDED EQUAL PROTECTION UNDER THE HOMICIDE LAWS OF THE STATE, WITH EXCEPTIONS; AND BY ADDING SECTIONS [16-3-760](#), [16-3-761](#), [16-3-762](#), AND [16-3-763](#) SO AS TO DEFINE "PERSON" TO INCLUDE AN UNBORN CHILD AT ANY STAGE OF DEVELOPMENT AND TO ENSURE THAT AN UNBORN CHILD WHO IS A VICTIM OF ASSAULT IS AFFORDED EQUAL PROTECTION UNDER THE ASSAULT LAWS OF THE STATE, WITH EXCEPTIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the "South Carolina Prenatal Equal Protection Act of 2023".

SECTION 2. The General Assembly finds the following:

Acknowledging the sanctity of innocent human life, created in the image of God, which should be equally protected from fertilization to natural death, the purpose of this act is:

- (1) to afford equal protection of the laws to all preborn children from the moment of fertilization;
- (2) to comply with the Constitution of the United States, which requires that "no state shall deny to any person within its jurisdiction the equal protection of the laws," by repealing exceptions that permit wilful prenatal homicide;
- (3) to ensure that all persons potentially subject to such laws are entitled to due process protections; and, therefore,
- (4) to abolish abortion in this State as a legal act or as a crime separate and distinct from equivalent acts committed against a person who has been born.

SECTION 3.A. Article 1, Chapter 3, Title 16 of the S.C. Code is amended by adding:

Section [16-3-6](#). (A) As used in this article, "fertilization" means the fusion of a human spermatozoon with a human ovum.

(B) As used in this article, "person" includes an unborn child at every stage of development from fertilization until birth.

B. Article 1, Chapter 3, Title 16 of the S.C. Code is amended by adding:

Section [16-3-105](#). Where the victim is an unborn child and the defendant is the child's mother, it is a defense to prosecution under this article that the mother engaged in the proscribed conduct because she was compelled to do so by the threat of imminent death or great bodily injury.

Section [16-3-106](#). In a prosecution under this article where the victim is an unborn child, unless specifically provided otherwise:

(1) enforcement is subject to the same presumptions, defenses, justifications, laws of parties, immunities, and clemencies as would apply to the homicide of a person who had been born alive;

(2) solicitors and the Attorney General shall have concurrent authority to prosecute criminal cases and to perform any duty that necessarily relates to such prosecution; and

(3) this article prevails over other law to the extent of any conflict.

Section [16-3-107](#). (A) Medical care or treatment provided with the requisite consent by a licensed physician to avert the death of a pregnant woman that results in the accidental or unintentional injury or death of her unborn child when all reasonable alternatives to save the life of the unborn child were attempted or none were available does not constitute a violation of this article.

(B) Mistake or unintentional error on the part of a licensed physician or other licensed health care provider or his or her employee or agent or any person acting on behalf of the patient shall not subject the licensed physician or other licensed health care provider or person acting on behalf of the patient to any criminal liability under this article.

(C) Medical care or treatment includes, but is not limited to, ordering, dispensation, or administration of prescribed medications and medical procedures.

Section [16-3-108](#). Any person may be compelled to testify in any action or prosecution initiated pursuant to this article where the victim is an unborn child; provided, however, that such testimony shall not be admissible in any civil or criminal action against such witness and such witness shall forever be exempt from any prosecution for the act concerning which the witness testifies except a prosecution for perjury.

SECTION 4. Article 7, Chapter 3, Title 16 of the S.C. Code is amended by adding:

Section [16-3-760](#). (A) As used in this article, "fertilization" means the fusion of a human spermatozoon with a human ovum.

(B) As used in this article, "person" includes an unborn child at every stage of development from fertilization until birth.

Section [16-3-761](#). Where the victim is an unborn child and the defendant is the child's mother, it is a defense to prosecution under this article that the mother engaged in the proscribed conduct because she was compelled to do so by the threat of imminent death or great bodily injury.

Section [16-3-762](#). In a prosecution under this article where the victim is an unborn child, unless specifically provided otherwise:

(1) enforcement is subject to the same presumptions, defenses, justifications, laws of parties, immunities, and clemencies as would apply to the assault of a person who had been born alive;

(2) solicitors and the Attorney General shall have concurrent authority to prosecute criminal cases and to perform any duty that necessarily relates to such prosecution; and

(3) this article prevails over other law to the extent of any conflict.

Section [16-3-763](#). (A) Medical care or treatment provided with the requisite consent by a licensed physician to avert the death of a pregnant woman that results in the accidental or unintentional injury or death of her unborn child when all reasonable alternatives to save the life of the unborn child were attempted or none were available does not constitute a violation of this article.

(B) Mistake, or unintentional error on the part of a licensed physician or other licensed health care provider or his or her employee or agent or any person acting on behalf of the patient shall not subject the licensed physician or other licensed health care provider or person acting on behalf of the patient to any criminal liability under this article.

(C) Medical care or treatment includes, but is not limited to, ordering, dispensation, or administration of prescribed medications and medical procedures.

Section [16-3-764](#). Any person may be compelled to testify in any action or prosecution initiated pursuant to this article where the victim is an unborn child; provided, however, that such testimony shall not be admissible in any civil or criminal action against such witness and such witness shall forever be exempt from any prosecution for the act concerning which the witness testifies except a prosecution for perjury.

SECTION 5. This act is prospective only and shall not apply to conduct committed prior to the effective date of this act.

SECTION 6. Section [16-3-1083](#), Chapter 41 of Title 44, and any other existing provisions relating to prenatal homicide or assault or regulating abortion or abortion facilities are not repealed but are superseded to the extent that such provisions may conflict with or may be inconsistent with this act.

SECTION 7. This act takes effect upon approval of the Governor.

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